

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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WEBSTER CAPITAL FINANCE, INC.,)

Plaintiff,)

vs.)

MILT'S EAGLE, LLC, EAGLE JET)
AVIATION, INC., MILTON WOODS,)
individually, and ALEX PENLY, individually,)

Defendants.)

Case No.: 2:09-cv-01367-RLH-PAL

ORDER

(Motion to Set Aside #84)

Before the Court is Plaintiff Webster Capital Finance, Inc.'s **Motion to Set Aside Order of Dismissal for Want of Prosecution** (#84, filed June 19, 2012) based on Rule 60 of the Federal Rules of Civil Procedure. Defendant Milton Woods, the only remaining Defendant in this case, did not file an Opposition.

BACKGROUND

Plaintiff Webster Capital and the Defendants are parties to an agreement in which Webster Capital loaned money to Milt's Eagle (one of the Defendants) to fund the purchase of a commercial airplane. The loan was secured by the plane and the personal guaranties of the other Defendants. Webster Capital commenced this lawsuit in July 2009, alleging Defendants failed to

1 negotiations with Milton Woods during the time in question, caused Webster Capital to neglect
2 filing a response to the notice.

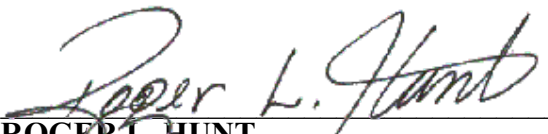
3 The Court finds this neglect is excusable. First, setting aside the order of dismissal
4 will not prejudice Woods. The Court has already entered summary judgment against Woods for
5 liability and he admitted in his Answer that he was liable to Webster Capital for some amount of
6 damages as well. All that remains to be done, therefore, is determine the proper amount of
7 damages Woods owes. Furthermore, although the Court is not impressed with Webster Capital's
8 excuse for not responding to the notice, the Court has no reason to believe Webster Capital has
9 acted in bad faith, and the delay caused by Webster Capital's neglect is minimal. Therefore, the
10 Court grants Webster Capital's motion.

11 **CONCLUSION**

12 Accordingly, and for good cause appearing,

13 IT IS HEREBY ORDERED that Webster Capital's Motion to Set Aside (#84) is
14 GRANTED. The Court sets aside its Order of Dismissal (#82) and reopens the case.

15 Dated: August 3, 2012.

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18 **ROGER L. HUNT**
19 **United States District Judge**
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